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SENATE BILL 190

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO WORKERS' COMPENSATION; PROVIDING FOR WAGES FOR
INJURED WORKERS RETURNING TO WORK.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-26 NMSA 1978 (being Laws 1987,
Chapter 235, Section 12, as amended) is amended to read:

"52-1-26. PERMANENT PARTIAL DISABILITY.--

A. As a guide to the interpretation and application
of this section, the policy and intent of this legislature is
declared to be that every person who suffers a compensable
injury with resulting permanent partial disability should be
provided with the opportunity to return to gainful employment
as soon as possible with minimal dependence on compensation
awards.

B. As used in the Workers' Compensation Act,

underscored material = new
[bracketed material] = delete

1 "partial disability" means a condition whereby a worker, by
2 reason of injury arising out of and in the course of
3 employment, suffers a permanent impairment.

4 C. Permanent partial disability shall be determined
5 by calculating the worker's impairment as modified by ~~[his]~~ the
6 worker's age, education and physical capacity, pursuant to
7 Sections 52-1-26.1 through 52-1-26.4 NMSA 1978; provided that,
8 regardless of the actual calculation of impairment as modified
9 by the worker's age, education and physical capacity, the
10 percentage of disability awarded shall not exceed ninety-nine
11 percent.

12 D. If, on or after the date of maximum medical
13 improvement, an injured worker returns to work at a wage equal
14 to or greater than the worker's pre-injury wage, the worker's
15 permanent partial disability rating shall be equal to ~~[his]~~ the
16 worker's impairment and shall not be subject to the
17 modifications calculated pursuant to Sections 52-1-26.1 through
18 52-1-26.4 NMSA 1978. If, on or after the date of maximum
19 medical improvement, an injured worker returns to work at a
20 wage less than the worker's pre-injury wage, the sum of the
21 worker's weekly disability benefit modifiers as calculated in
22 Sections 51-1-26.1 through 52-1-26.4 NMSA 1978 plus the
23 worker's post-maximum medical improvement weekly wages shall
24 not exceed the average weekly wage defined pursuant to Section
25 52-1-20 NMSA 1978.

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E. In considering a claim for permanent partial disability, a workers' compensation judge shall not receive or consider the testimony of a vocational rehabilitation provider offered for the purpose of determining the existence or extent of disability."

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